



South Coast Air Quality Management District **PUBLIC HEARING**

Stipulated Order for Abatement issued to Exide Technologies

The Hearing Board of the South Coast Air Quality Management District will hold a public hearing to consider a modification to the existing Stipulated Order for Abatement issued to Exide Technologies, a lead acid battery recycler located in the city of Vernon which is in the process of closure. The purpose of the modification is to keep Exide under a legally enforceable Order pending approval of the company's closure plan. The facility is not operating.

This legal proceeding is open to the public. The public hearing will be held:

Saturday, February 6, 2016

**9:00 a.m. at Commerce City Council Chambers
2535 Commerce Way
Commerce, CA 90040**

This legal proceeding is open to the public. You may present oral or written testimony (if written material is to be presented to the Hearing Board eight [8] copies must be submitted to the Clerk of the Board).

For more information, please visit:

For more information related to Exide Technologies, please visit the SCAQMD website at: <http://www.aqmd.gov/home/regulations/compliance/exide-updates> or contact the Public Advisor at 909-396-2432 or via email at dalatorre@aqmd.gov.

1 OFFICE OF THE GENERAL COUNSEL
SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT
2 NANCY S. FELDMAN, State Bar No. 125610
PRINCIPAL DEPUTY DISTRICT COUNSEL
3 21865 Copley Drive
Diamond Bar, California 91765
4 Tel: 909.396.3400 • Fax: 909.396.2961

SOUTH COAST AQMD
CLERK OF THE BOARDS

'15 NOV 24 P4:00

5 Attorneys for Petitioner
South Coast Air Quality Management District
6
7

8 **BEFORE THE HEARING BOARD OF THE**
9 **SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT**
10

11 In the Matter of

CASE NO. 3151-32

12 SOUTH COAST AIR QUALITY
MANAGEMENT DISTRICT,

**PETITION FOR MODIFICATION OF
ORDER FOR ABATEMENT**

Petitioner,

14 vs.

District Rule 1420.1(d)(2)

15 EXIDE TECHNOLOGIES INC.,
16 [Facility ID No. 124838],

Hearing Date: December 22, 2015
Time: 9:00a.m.
Place: 21865 Copley Drive
Diamond Bar, CA 91765

17 Respondent.
18
19

20 SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT (hereinafter referred to as
21 "District"), petitions the District Hearing Board to extend the Order for Abatement directed to
22 Respondent, EXIDE TECHNOLOGIES, INC. (hereinafter referred to as "Exide" or
23 "Respondent"), with regard to its operation of a large lead acid battery recycling facility.

24 The District alleges as follows:

- 25 1. Petitioner is a body corporate and politic established and existing pursuant to Health
26 and Safety Code §40000, *et seq.* and §40400, *et seq.*, and is the sole and exclusive local agency
27 with the responsibility for comprehensive air pollution control in the South Coast Basin.
28 2. Exide is a Delaware corporation subject to the jurisdiction of the District.

1 Respondent owns and operates a secondary lead smelting facility [Facility ID No. 124838] located
2 at 2700 South Indiana Street, Vernon, CA 90023 (“the Facility”).

3 3. Respondent formerly recycled lead and the plastic portions of spent batteries,
4 primarily from automobiles. The Respondent shut down its lead smelting operations in March
5 2014 but has not yet surrendered its permit to operate as a lead acid battery recycling facility.

6 4. District Rule 1420.1(d)(2) requires, in relevant part, that no person who
7 owns/operates a lead-processing facility shall discharge into the atmosphere emissions which
8 contribute to ambient concentrations of lead that exceed 0.150 micrograms per cubic meter
9 (“ $\mu\text{g}/\text{m}^3$ ”) averaged over 30 days. The ambient air concentrations of lead are determined by
10 ambient monitors required to be maintained and operated by the facility or at any District-installed
11 monitor.

12 5. On or about March 14, 2014, Exide began shutting down its smelting operations for
13 purposes of conducting various construction and maintenance activities.

14 6. The District petitioned for an Order for Abatement when Exide’s maintenance and
15 construction activities resulted in Exide violating District Rule 1420.1(d)(2) by discharging into
16 the atmosphere emissions which contribute to ambient concentrations of lead that exceed 0.150
17 $\mu\text{g}/\text{m}^3$ averaged over 30 days. Exide stipulated to the issuance of an Order for Abatement, which
18 was issued by the Hearing Board on July 10, 2014.

19 7. The Order for Abatement incorporates a Dust Mitigation Plan designed to reduce
20 and control lead-containing fugitive dust from Exide’s Vernon facility during construction related
21 activities. Exide has been complying with the terms of the Dust Mitigation Plan, which is revised
22 as needed to address current circumstances at the Facility.

23 8. Subsequent to the issuance of this Order for Abatement, Exide decided to
24 permanently close the Facility. Exide is in the process of obtaining approval of its Closure Plan
25 from the California Department of Toxic Substances Control.

26 9. District is informed and believes that when Respondent begins to deconstruct the
27 Facility, it is likely that Respondent will violate the ambient lead standard in Rule 1420.1(d)(2)
28 unless Respondent continues to strictly comply with the existing Dust Mitigation Plan.

1 10. Since the issuance of this Order for Abatement, the District amended Rule 1420.1 to
2 impose closure requirements on large lead-acid battery recycling facilities. Rule 1420.1(p)(2)
3 requires that within 90 days from September 4, 2015, Respondent shall submit a Compliance Plan
4 for Closure Activities for review and approval. The District anticipates that Exide's closure plan
5 will be reviewed and approved prior to June 6, 2016.

6 11. Until the Compliance Plan for Closure Activities is approved by the District,
7 Respondent's obligation to comply with its present Dust Mitigation Plan is best assured through
8 this Order for Abatement.

9 12. It is not unreasonable to require Respondent to comply with the District Rules and
10 regulations.

11 13. The issuance of an Order for Abatement upon a fully noticed hearing would not
12 constitute a taking of property without due process of law.

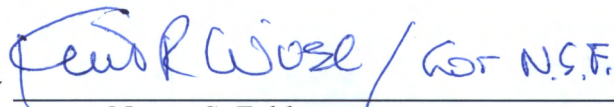
13
14 WHEREFORE, the District prays for the following:

15 That the Hearing Board extend the Order for Abatement requiring Respondent to comply
16 with all of its terms and conditions through June 30, 2016 or until Respondent's Compliance Plan
17 for Closure Activities submitted pursuant to Rule 1420.1(p)(2) is approved by the Executive
18 Officer, whichever is sooner.

19
20 Dated: November 24, 2015

SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT
OFFICE OF THE GENERAL COUNSEL
Nancy S. Feldman, Principal Deputy District Counsel

21
22
23 By

 / for N.S.F.

24 Nancy S. Feldman
25 Attorney for Petitioner
26
27
28

1 **PROOF OF SERVICE**

2 I am employed in the County of Los Angeles, State of California. I am over the age of 18
3 and not a party to the within action. My business address is 21865 Copley Drive, Diamond Bar,
CA 91765.

4 On November 24, 2015, I served the within document(s) described **PETITION FOR**
5 **MODIFICATION OF ORDER FOR ABATEMENT** on the interested parties in this action as
stated below:

6 Randolph C. Visser, Esq.
7 Stephen J. O'Neil, Esq.
8 Jeffrey J. Parker, Esq.
9 Olivier F. Theard, Esq.
10 Sheppard, Mullin, Richter & Hampton LLP
11 333 South Hope Street, 43rd Floor
12 Los Angeles, CA 90071
Office: (213) 620-1780
Email: rvisser@sheppardmullin.com
soneil@sheppardmullin.com
jparker@sheppardmullin.com
otheard@sheppardmullin.com

13 ☐ (BY MAIL) By placing a true copy of the foregoing document(s) in a sealed envelope
14 addressed as set forth above. I placed each such envelope for collection and mailing following
ordinary business practices. I am readily familiar with this District's practice for collection and
15 processing of correspondence for mailing. Under that practice, the correspondence would be
deposited with the United States Postal Service, with postage thereon fully prepaid at Diamond Bar,
16 California, in the ordinary course of business. I am aware that on motion of the party served, service
is presumed invalid if postal cancellation date or postage meter date is more than one day after date
of deposit for mailing in affidavit.

17 ☐ (BY OVERNIGHT DELIVERY) I deposited in a box or other facility regularly maintained
18 by Overnight Express, an express service carrier, or delivered to a courier or driver authorized by
said express service carrier to receive documents, a true copy of the foregoing document(s) in a sealed
19 envelope or package designated by the express service carrier, addressed as set forth above, with fees
for overnight delivery paid or provided for.

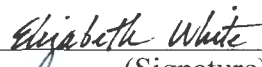
20 ☐ (BY PERSONAL SERVICE) I caused to be delivered a true copy of the foregoing
21 document(s) in a sealed envelope by hand to the offices of the above addressee(s).

22 ☒ (BY E-MAIL) By transmitting a true .pdf copy of the foregoing document(s) by e-mail
transmission from ewhite@aqmd.gov to each interested party at the e-mail address set forth above.
23 Said transmission was completed on the aforesaid date at the time stated on declarant's e-mail
transmission record.

24 Executed on November 24, 2015, at Diamond Bar, California.

25 I declare under penalty of perjury under the laws of the State of California that the
26 foregoing is true and correct.

27 Elizabeth White
28 (Type or print name)


(Signature)